

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INFINITE DATA LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-262 (RGA)
)	
MASTERCARD INCORPORATED,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO STAY CUSTOMER CASE

Defendant MasterCard Incorporated (“MasterCard”) moves to stay this customer case in favor of the declaratory judgment action filed in this Court by Mellanox Technologies Inc., the manufacturer of the accused products (C.A. No. 13-913-RGA). Defendant MasterCard joins in and incorporates the arguments set forth in the briefs filed by customer defendant Barnes & Noble, Inc. in support of its motion to stay (C.A. No. 13-251-RGA, D.I. 8).¹ In addition, defendant MasterCard relies on the Declaration of Stephen D. Blase filed herewith in support of this Motion to Stay.

¹ A motion to stay tolls the time for MasterCard to respond to the Amended Complaint. *See, e.g., Intravascular Research Ltd. v. Endosonics Corp.*, 994 F. Supp. 564, 567 n.3 (D. Del. 1998) (“Historically, motions to stay have been recognized as tolling the time period for answering a complaint because pre-answer consideration of these motions have been found to maximize the effective utilization of judicial resources.”); *see also* 5C Wright & Miller, FEDERAL PRACTICE AND PROCEDURE § 1360, 86 (3d ed. 2004).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Rodger D. Smith II

Rodger D. Smith II (#3778)

Jeremy A. Tigan (#5239)

1201 North Market Street

P.O. Box 1347

Wilmington, DE 19899

(302) 658-9200

rsmith@mnat.com

jtigan @mnat.com

*Attorneys for Defendant MasterCard
Incorporated*

July 29, 2013

7399655.1

RULE 7.1.1 CERTIFICATE

I hereby certify that the subject of the foregoing motion has been discussed with counsel for the plaintiff and that we have not been able to reach agreement.

/s/ Rodger D. Smith II

Rodger D. Smith II (#3778)

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2013, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on July 29, 2013, upon the following in the manner indicated:

Brian E. Farnan, Esquire
Michael J. Farnan, Esquire
FARNAN LLP
919 North Market Street, 12th Floor
Wilmington, DE 19801
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Marc A. Fenster, Esquire
Alexander C.D. Giza, Esquire
Jeffrey Z.Y. Liao, Esquire
RUSS, AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025-1031
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

/s/ Rodger D. Smith II

Rodger D. Smith II (#3778)